

this chapter. Subpart C applies to a plan for which the annual valuation required by § 4041A.24(a) indicates that the value of nonforfeitable benefits under the plan exceeds the value of the plan's assets (including claims for withdrawal liability) if, at the end of the plan year for which that valuation was done, the plan provided any benefits subject to reduction. Benefit reductions required to be made under subpart C shall not apply to accrued benefits under plans or plan amendments adopted on or before March 26, 1980, or under collective bargaining agreements entered into on or before March 26, 1980.

(d) *Subpart D.* Subpart D sets forth the procedures under which the plan sponsor of an insolvent plan must suspend benefit payments and issue insolvency notices in accordance with section 4281(d) of ERISA and § 4041A.25 (c) and (d) of this chapter. Subpart D applies to a plan that has been amended under section 4281(c) of ERISA and subpart C of this part to eliminate all benefits subject to reduction and to a plan that provided no benefits subject to reduction as of the date on which the plan terminated.

§ 4281.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: annuity, employer, ERISA, fair market value, IRS, insurer, irrevocable commitment, mass withdrawal, multiemployer plan, nonforfeitable benefit, normal retirement age, PBGC, person, plan, plan administrator, and plan year.

In addition, for purposes of this part:

Available resources means, for a plan year, available resources as described in section 4245(b)(3) of ERISA.

Benefits subject to reduction means those benefits accrued under plan amendments (or plans) adopted after March 26, 1980, or under collective bargaining agreements entered into after March 26, 1980, that are not eligible for the PBGC's guarantee under section 4022A(b) of ERISA.

Financial assistance means financial assistance from the PBGC under section 4261 of ERISA.

Insolvency benefit level means the greater of the resource benefit level or the benefit level guaranteed by the

PBGC for each participant and beneficiary in pay status.

Insolvency year means insolvency year as described in section 4245(b)(4) of ERISA.

Insolvent means that a plan is unable to pay benefits when due during the plan year. A plan terminated by mass withdrawal is not insolvent unless it has been amended to eliminate all benefits that are subject to reduction under section 4281(c), or, in the absence of an amendment, no benefits under the plan are subject to reduction under section 4281(c) of ERISA.

Pro rata means that the required benefit reduction or payment shall be allocated among affected participants in the same proportion that each such participant's nonforfeitable benefits under the plan bear to all nonforfeitable benefits of those participants under the plan.

Reasonably expected to enter pay status means, with respect to plan participants and beneficiaries, persons (other than those in pay status) who, according to plan records, are disabled, have applied for benefits, or have reached or will reach during the applicable period the normal retirement age under the plan, and any others whom it is reasonable for the plan sponsor to expect to enter pay status during the applicable period.

Resource benefit level means resource benefit level as described in section 4245(b)(2) of ERISA.

Valuation date means the last day of the plan year in which the plan terminates and the last day of each plan year thereafter.

§ 4281.3 Submission of documents.

(a) *Filing date.* Any notice, document or information required to be filed with the PBGC under this part shall be considered filed on the date of the United States postmark stamped on the cover in which the document or information is mailed, provided that the postmark was made by the United States Postal Service and the document was mailed postage prepaid, properly packaged and addressed to the PBGC. If these conditions are not met, the document shall be considered filed on the date on which it was received by the PBGC.

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(b) *Address.* All notices, documents and information required to be filed with the PBGC under this part shall be addressed to Reports Processing, Insurance Operations Department, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005-4026.

§ 4281.4 Collection of information.

The collection of information requirements contained in this part have been approved by the Office of Management and Budget under control number 1212-0032.

Subpart B—Valuation of Plan Benefits and Plan Assets

§ 4281.11 Valuation dates.

(a) *Annual valuations of mass-withdrawal-terminated plans.* The valuation dates for the annual valuation required under section 4281(b) of ERISA shall be the last day of the plan year in which the plan terminates and the last day of each plan year thereafter.

(b) *Valuations related to mass withdrawal reallocation liability.* The valuation date for determining the value of unfunded vested benefits (for purposes of allocation) under section 4219(c)(1)(D) of ERISA shall be—

(1) If the plan terminates by mass withdrawal, the last day of the plan year in which the plan terminates; or

(2) If substantially all the employers withdraw from the plan pursuant to an agreement or arrangement to withdraw from the plan, the last day of the plan year as of which substantially all employers have withdrawn from the plan pursuant to the agreement or arrangement.

§ 4281.12 Benefits to be valued.

(a) *Form of benefit.* The plan sponsor shall determine the form of each benefit to be valued, without regard to the form of benefit valued in any prior year, in accordance with the following rules:

(1) If a benefit is in pay status as of the valuation date, the plan sponsor shall value the form of benefit being paid.

(2) If a benefit is not in pay status as of the valuation date but a valid election with respect to the form of benefit has been made on or before the valuation

date, the plan sponsor shall value the form of benefit so elected.

(3) If a benefit is not in pay status as of the valuation date and no valid election with respect to the form of benefit has been made on or before the valuation date, the plan sponsor shall value the form of benefit that, under the terms of the plan or applicable law, is payable in the absence of a valid election.

(b) *Timing of benefit.* The plan sponsor shall value benefits whose starting date is subject to election—

(1) By assuming that the starting date of each benefit is the earliest date, not preceding the valuation date, that could be elected; or

(2) By using any other assumption that the plan sponsor demonstrates to the satisfaction of the PBGC is more reasonable under the circumstances.

§ 4281.13 Benefit valuation methods—in general.

Except as otherwise provided in § 4281.16 (regarding plans that are closing out), the plan sponsor shall value benefits as of the valuation date by—

(a) Using the interest assumptions described in Table I of appendix B to part 4044 of this chapter;

(b) Using the mortality assumptions described in § 4281.14;

(c) Using interpolation methods, where necessary, at least as accurate as linear interpolation;

(d) Applying valuation formulas that accord with generally accepted actuarial principles and practices; and

(e) Adjusting the values to reflect the loading for expenses in accordance with appendix C to part 4044 of this chapter (substituting the term “benefits” for the term “benefit liabilities (as defined in 29 U.S.C. § 1301(a)(16))”).

[61 FR 34118, July 1, 1996, as amended at 63 FR 38307, July 16, 1998]

§ 4281.14 Mortality assumptions.

(a) *General rule.* Subject to paragraph (b) of this section (regarding certain death benefits), the plan administrator shall use the mortality factors prescribed in paragraphs (c), (d), and (e) of this section to value benefits under § 4281.13.

(b) *Certain death benefits.* If an annuity for one person is in pay status on